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KIAHUNA GOLF CLUB, LLC,  
KG KAUAI DEVELOPMENT, LLC,  
PUKALANI GOLF CLUB, LLC,  
KG MAUI DEVELOPMENT, LLC,  
MILILANI GOLF CLUB, LLC,  
QK HOTEL, LLC, OR HOTEL, LLC,  
AND KG HOLDINGS, LLC

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

SPORTS SHINKO CO., LTD., a  
Japanese corporation,

Plaintiff,

vs.

QK HOTEL, LLC, a Hawai'i limited  
liability company; KG HOLDINGS, LLC,  
a Hawai'i limited liability company and  
FRANKLIN K. MUKAI,

Defendants,

and

FRANKLIN K. MUKAI,

CV 04-00124 ACK-BMK

CONSOLIDATED CASES

EX PARTE MOTION FOR ORDER  
TO SHOW CAUSE WHETHER TO  
SEAL EXHIBITS 6, 7, 8, 10, 11 AND  
12 TO MOTION TO DISMISS CV.  
NOS. 04-00125 ACK-BMK, 04-00126  
ACK-BMK AND 04-00128 ACK-  
BMK FOR LACK OF SUBJECT  
MATTER JURISDICTION;  
DECLARATION OF ROBERT A.  
MARKS; CERTIFICATE OF  
SERVICE

Third-Party Plaintiff,

vs.

SPORTS SHINKO (USA) CO., LTD., a Delaware corporation; SPORTS SHINKO (HAWAII) CO., LTD., a Hawai'i corporation; SPORTS SHINKO (MILILANI) CO., LTD., a Hawai'i corporation; SPORTS SHINKO (KAUAI) CO., LTD., a Hawai'i corporation; SPORTS SHINKO (PUKALANI) CO., LTD., a Hawai'i corporation; SPORTS SHINKO RESORT HOTEL CORPORATION, a Hawai'i corporation; SPORTS SHINKO (WAIKIKI) CORPORATION, a Hawai'i corporation; and OCEAN RESORT HOTEL CORPORATION, a Hawai'i corporation,

Third-Party Defendants,

and

SPORTS SHINKO (HAWAII) CO., LTD., a Hawai'i corporation; SPORTS SHINKO RESORT HOTEL CORPORATION, a Hawai'i corporation; and SPORTS SHINKO (WAIKIKI) CORPORATION, a Hawai'i corporation,

Third-Party Defendants /  
Counterclaimants,

vs.

QK HOTEL, LLC, a Hawai'i limited liability company; KG HOLDINGS, LLC, a Hawai'i limited liability company; and FRANKLIN K. MUKAI,

Third-Party Counterclaim  
Defendants

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SPORTS SHINKO (USA) CO., LTD., a  
Delaware corporation,

Plaintiff,

vs.

PUKALANI GOLF CLUB, LLC, a  
Hawai'i limited liability company; KG  
MAUI DEVELOPMENT, LLC, a  
Hawai'i limited liability company; KG  
HOLDINGS, LLC, a Hawai'i limited  
liability company; and FRANKLIN K.  
MUKAI,

Defendants,

and

FRANKLIN K. MUKAI,

Third-Party Plaintiff,

vs.

SPORTS SHINKO CO., LTD., a  
Japanese corporation; SPORTS SHINKO  
(HAWAII) CO., LTD., a Hawai'i  
corporation; SPORTS SHINKO  
(MILILANI) CO., LTD., a Hawai'i  
corporation; SPORTS SHINKO (KAUAI)  
CO., LTD, a Hawai'i corporation;  
SPORTS SHINKO (PUKALANI) CO.,  
LTD., a Hawai'i corporation; SPORTS  
SHINKO RESORT HOTEL

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CORPORATION, a Hawai'i corporation;  
SPORTS SHINKO (WAIKIKI)  
CORPORATION, a Hawai'i corporation;  
and OCEAN RESORT HOTEL  
CORPORATION, a Hawai'i corporation,

Third-Party Defendants,

and

SPORTS SHINKO CO., LTD., a  
Japanese corporation; SPORTS SHINKO  
(HAWAII) CO., LTD., a Hawai'i  
corporation; and SPORTS SHINKO  
(PUKALANI) CO., LTD., a Hawai'i  
corporation,

Third-Party Defendants /  
Counterclaimants,

vs.

PUKALANI GOLF CLUB, LLC, a  
Hawai'i limited liability company; KG  
MAUI DEVELOPMENT, LLC, a  
Hawai'i limited liability company; KG  
HOLDINGS, LLC, a Hawai'i limited  
liability company; and FRANKLIN K.  
MUKAI,

Third-Party Counterclaim  
Defendants.

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SPORTS SHINKO (USA) CO., LTD.,  
a Delaware corporation,

Plaintiff,

vs.

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KIAHUNA GOLF CLUB, LLC, a  
Hawai'i limited liability company; KG  
KAUAI DEVELOPMENT, LLC, a  
Hawai'i limited liability company;  
PUKALANI GOLF CLUB, LLC, a  
Hawai'i limited liability company; KG  
MAUI DEVELOPMENT, LLC, a  
Hawai'i limited liability company;  
MILILANI GOLF CLUB, LLC, a  
Hawai'i limited liability company; QK  
HOTEL, LLC, a Hawai'i limited  
liability company, OR HOTEL, LLC, a  
Hawai'i limited liability company; KG  
HOLDINGS, LLC, a Hawai'i limited  
liability company; and FRANKLIN K.  
MUKAI,

Defendants,

and

FRANKLIN K. MUKAI

Third-Party Plaintiff,

vs.

SPORTS SHINKO CO., LTD., a  
Japanese corporation; SPORTS  
SHINKO (HAWAII) CO., LTD., a  
Hawai'i corporation; SPORTS  
SHINKO (MILILANI) CO., LTD., a  
Hawai'i corporation; SPORTS  
SHINKO (KAUAI) CO., LTD., a  
Hawai'i corporation; SPORTS  
SHINKO (PUKALANI) CO., LTD., a  
Hawai'i corporation, SPORTS  
SHINKO RESORT HOTEL  
CORPORATION, a Hawai'i

corporation; SPORTS SHINKO (WAIKIKI) CORPORATION, a Hawai'i corporation; and OCEAN RESORT HOTEL CORPORATION, a Hawai'i corporation,

Third-Party Defendants,

and

SPORTS SHINKO (HAWAII) CO., LTD., a Hawai'i corporation and SPORTS SHINKO (KAUAI) CO., LTD., a Hawai'i corporation,

Third-Party Defendants /  
Counterclaimants,

vs.

KIAHUNA GOLF CLUB, LLC, a Hawaii limited liability company; KG KAUAI DEVELOPMENT, LLC, a Hawai'i limited liability company; PUKALANI GOLF CLUB, LLC, a Hawai'i limited liability company; KG MAUI DEVELOPMENT, LLC, a Hawai'i limited liability company; QK HOTEL, LLC, a Hawai'i limited liability company; OR HOTEL, LLC, a Hawai'i limited liability company; KG HOLDINGS, LLC, a Hawai'i limited liability company; and FRANKLIN K. MUKAI,

Third-Party Counterclaim  
Defendants.

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SPORTS SHINKO CO., LTD., a

CV 04-00127 ACK-BMK

Japanese corporation,

Plaintiff,

vs.

OR HOTEL, LLC, a Hawai'i limited liability company; KG HOLDINGS, LLC, a Hawai'i limited liability company; and FRANKLIN K. MUKAI,

Defendants,

and

FRANKLIN K. MUKAI

Third-Party Plaintiff,

vs.

SPORTS SHINKO (USA) CO., LTD., a Delaware corporation; SPORTS SHINKO (HAWAII) CO., LTD., a Hawai'i corporation; SPORTS SHINKO (MILILANI) CO., LTD., a Hawai'i corporation; SPORTS SHINKO (KAUAI) CO., LTD., a Hawai'i corporation; SPORTS SHINKO (PUKALANI) CO., LTD., a Hawai'i corporation; SPORTS SHINKO RESORT HOTEL CORPORATION, a Hawai'i corporation; SPORTS SHINKO (WAIKIKI) CORPORATION, a Hawai'i corporation; and OCEAN RESORT HOTEL CORPORATION, a Hawai'i corporation,

Third-Party Defendants,

and

SPORTS SHINKO (HAWAII) CO.,  
LTD., a Hawai'i corporation; SPORTS  
SHINKO RESORT HOTEL  
CORPORATION, a Hawai'i  
corporation; and SPORTS SHINKO  
(WAIKIKI) CORPORATION, a  
Hawai'i corporation,

Third-Party Defendants /  
Counterclaimants,

vs.

OR HOTEL, LLC, a Hawai'i limited  
liability company; KG HOLDINGS,  
LLC, a Hawai'i limited liability  
company; and FRANKLIN K.  
MUKAI,

Third-Party Counterclaim  
Defendants.

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SPORTS SHINKO (USA) CO., LTD., a  
Delaware corporation,

Plaintiff,

vs.

MILILANI GOLF CLUB, LLC, a  
Hawai'i limited liability company; KG  
HOLDINGS, LLC, a Hawai'i limited  
liability company; and FRANKLIN K.  
MUKAI,

CV 04-00128 ACK-BMK



Defendants,

and

FRANKLIN K. MUKAI,

Third-Party Plaintiff,

vs.

SPORTS SHINKO CO., LTD., a  
Japanese corporation; SPORTS SHINKO  
HAWAII) CO., LTD., a Hawai'i  
corporation; SPORTS SHINKO  
(MILILANI) CO., LTD., a Hawai'i  
corporation; SPORTS SHINKO (KAUAI)  
CO., LTD., a Hawai'i corporation;  
SPORTS SHINKO (PUKALANI) CO.,  
LTD., a Hawai'i corporation; SPORTS  
SHINKO RESORT HOTEL  
CORPORATION, a Hawai'i corporation;  
SPORTS SHINKO (WAIKIKI)  
CORPORATION, a Hawai'i corporation;  
and OCEAN RESORT HOTEL  
CORPORATION, a Hawai'i corporation,

Third-Party Defendants,

and

SPORTS SHINKO (HAWAII) CO.,  
LTD., a Hawai'i corporation and  
SPORTS SHINKO (MILILANI) CO.,  
LTD., a Hawai'i corporation,

Third-Party Defendants /  
Counterclaimants,

vs.

MILILANI GOLF CLUB, LLC, a  
Hawai'i limited liability company; KG  
HOLDINGS, LLC, a Hawai'i limited  
liability company, and FRANKLIN K.  
MUKAI,

Third-Party Counterclaim  
Defendants.

EX PARTE MOTION FOR ORDER TO SHOW CAUSE WHETHER TO SEAL  
EXHIBITS 6, 7, 8, 10, 11 AND 12 TO MOTION TO DISMISS CV. NOS. 04-  
00125 ACK-BMK, 04-00126 ACK-BMK AND 04-00128 ACK-BMK FOR LACK  
OF SUBJECT MATTER JURISDICTION

Defendants KG Holdings, LLC, QK Hotel, LLC, OR Hotel, LLC, Pukalani  
Golf Club, LLC, KG Maui Development, LLC, Mililani Golf Club, LLC, Kiahuna  
Golf Club, LLC and KG Kauai Development, LLC (collectively, "KG"), by and  
through their counsel, Price Okamoto Himeno & Lum, respectfully moves this  
Honorable Court *ex parte* to issue an Order To Show Cause, directed to the SS  
entities<sup>1</sup>, to state why Exhibits 6, 7, 8, 10, 11 and 12 to the KG's Motion To  
Dismiss CV. Nos. 04-00125 ACK-BMK, 04-00126 ACK-BMK and 04-00128  
ACK-BMK For Lack Of Subject Matter Jurisdiction filed November 16, 2006 (the  
"Exhibits" and the "Motion", respectively) should be filed under seal or redacted in

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<sup>1</sup> "SS entities" refers to plaintiffs Sports Shinko Co., Ltd. and Sports Shinko  
(USA) Co., Ltd., and third party defendants Sports Shinko (Hawaii) Co., Ltd.,  
Sports Shinko (Mililani) Co., Ltd., Sports Shinko (Kauai) Co., Ltd., Sports Shinko  
(Pukalani) Co., Ltd., Sports Shinko Resort Hotel Corporation, Sports Shinko  
(Waikiki) Corporation, and Ocean Resort Hotel Corporation.

a manner acceptable to the Court and the parties. The Exhibits were served upon the Chambers of the Court, without redaction, on November 16, 2006.

This Motion is made on the grounds that Exhibits 6, 7, 8, 10, 11 and 12 were designated “confidential” at the behest of some or all of the SS entities in the manner provided by the Stipulated Protective Order filed herein on January 25, 2005 (“SPO”). However, the confidential nature of the Exhibits pursuant to the criteria of Kamakana v. City and County of Honolulu, 447 F.3d 1172 (9<sup>th</sup> Cir. 2006) (“Kamakana”), which was decided after the Court approved the SPO, is not established.

KG has no stake in the outcome of this issue so long as certain address information found in the Exhibits is before the Court in its consideration of the Motion. KG is indifferent to whether the Exhibits are filed under seal. It is the burden of the SS entities to demonstrate that the documents it asserts are confidential can properly be filed under seal pursuant to the criteria of Kamakana.

As demonstrated in the attached declaration of counsel, KG has been diligent in trying to resolve this issue without judicial intervention, but the SS entities have not been responsive, thereby making this motion necessary.

WHEREFORE, KG asks the Court to enter an order requiring the SS entities to show cause why the Exhibits should be filed under seal or redacted in a manner suitable to the Court and the parties, or if they fail to timely show cause, to direct

that the Exhibits be filed in the public record. KG respectfully requests that SS be ordered to show cause in an expedited time frame such that the hearing on KG's Motion, set for February 12, 2007 at 9:30 a.m., may proceed as scheduled.

This Motion is supported by the Declaration of Robert A. Marks, and the record herein.

DATED: Honolulu, Hawaii, December 20, 2006.

/s/ Robert A. Marks  
WARREN PRICE III  
ROBERT A. MARKS

Attorneys for Defendants  
KG Holdings, LLC, QK Hotel, LLC, OR  
Hotel, LLC, Pukalani Golf Club, LLC, KG  
Maui Development, LLC, Mililani Golf  
Club, LLC, Kiahuna Golf Club, LLC and  
KG Kauai Development, LLC